EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-0585-PST-E TCEQ ID: RN101872133 CASE NO.: 33268 RESPONDENT NAME: JOHN PAUL DODSON AND WILLIAM DODSON

ORDER TYPE:					
1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING			
X FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER			
AMENDED ORDER	EMERGENCY ORDER				
CASE TYPE:					
AIR	INDUSTRIAL AND HAZARDOUS WASTE				
PUBLIC WATER SUPPLYX_PETROLEUM STORAGE TANKSOCCUPATIONAL CERTIFICA					
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL			
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION			
, ,	ED: 321 South Poplar Street, Kermit, Winkler	County			
TYPE OF OPERATION: Non-operating co	onvenience store with retail sales of gasoline				
SMALL BUSINESS: X Yes	No	•			
OTHER SIGNIFICANT MATTERS: Ther regarding this facility location or these Respo	e are no complaints. There is no record of add indents.	itional pending enforcement actions			
INTERESTED PARTIES: No one other tha	nn the ED and the Respondent has expressed an	interest in this matter.			
COMMENTS RECEIVED: The Texas Reg	ister comment period expired on April 21, 2008	8. No comments were received.			
Ms. Jennifer Coo TCEQ Enforcement Coordinator: TCEQ Regional Contact: Mr. Micl	s, Litigation Division, MC 175, (512) 239-0019 ok, Litigation Division, MC 175, (512) 239-187 Mr. Tom Greimel, Waste Enforcement Section hael Edmiston, Midland Regional Office, MC F son and William Dodson, 505 East Van, Kermi	73 n, MC 128, (512) 239-5690 R-7, (432) 620-6121			
<u> </u>	ented by counsel on this enforcement matter.				

RESPONDENTS NAME: JOHN PAUL DODSON AND WILLIAM DODSON DOCKET NO. 2007-0585-PST-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ComplaintX Routine Enforcement Follow-up	Total Assessed: \$7,875 Total Deferred: \$0	Ordering Provisions: The Respondents shall undertake the
Date of Complaints Relating to this Case: None Dates of Investigation Relating to this Case: June 21, 2006 and March 20, 2007	Total Due to General Revenue: \$7,875 This is a Default Order. The Respondents have not actually paid any of the assessed penalty but will be required to do so under the terms of this order	following technical requirements: 1. Within 30 days, permanently remove from service the UST system located at the Facility. 2. Within 45 days, submit written
Date of NOE Relating to this Case: April 3, 2007 Background Facts: The EDPRP was filed on June	Site Compliance History Classification High X Average Poor Person Compliance History Classification High X Average Poor	certification to demonstrate compliance.
15, 2007, and re-filed for service on January 10, 2008. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," each Respondent received notice of the EDPRP on January 29, 2008, as evidenced by the signatures on the cards. The Respondents failed to respond to the	Major Source: Yes X No Applicable Penalty Policy: September 2002	
EDPRP, failed to request a hearing, and failed to schedule a settlement conference. No delivery certificate revocation because no delivery certificate has been issued to Respondents, and the Facility is non-operational.		
The Respondents in this case do not owe any other penalties according to the Administrative Penalty Database Report.	,	
PST: Failed to permanently remove from service, no later than 60 days after the prescribed upgrade	·	
implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 Tex. ADMIN. CODE § 334.47(a)(2)].		
	·	

Policy Revision 2 (Sept	Penalty Calculation	on Worksheet (P	,	on March 19, 2007
TCFO	ember 2002)		FOW Revision	
DATES Assigned PCW	9-Apr-2007 18-Apr-2007	7 EPA Due		
RESPONDENT/FACILITY	INFORMATION		n, Bevolini jaligusa (Verengala)	normalism safetimes
A CARROTT CONTRACTOR OF THE CO	William Dodson		e i de la major de la Servicia de la Companya de l La companya de la Companya de	A PROGRAM SAN
Reg. Ent. Ref. No.	RN101872133		 	
Facility/Site Region		Major/Minor Source	Minor	
CASE INFORMATION				
Enf./Case ID No.	33268	No. of Violations	1	
Docket No.	2007-0585-PST-E	Order Type		
	Petroleum Storage Tank	Enf. Coordinator		
Multi-Media Admin. Penalty \$ L	imit Minimum \$0 Maximum	\$10,000	EnforcementTeam 7	
Admini. I enaity & L	maximum 40 jiiaximum			
	Penalty Calcul	ation Section		
TOTAL BASE PENAL	TY (Sum of violation base penalt		Subtotal 1	\$7,500
TOTAL DAOL LIVAL	Management Police			
ADJUSTMENTS (+/-)	TO SUBTOTAL 1			
Subtotals 2-7 are obtain Compliance Histo	ed by multiplying the Total Base Penalty (Subtotal 1)		otals 2, 3, & 7	\$375
Compliance risto	n ymbolis, tiadh a seasan i seasan beadaidh as i dhean i seasan	/o Emancement a present a superior Subtr		ψ373
Notes	Enhancement for one NOV with sar	ne or similar violations.		
Culpability	No 09	% Enhancement	Subtotal 4	\$0
Notes	The respondent does not meet the	ne culpability criteria.		
Good Faith Effort	to Comply	Reduction	Subtotal 5	\$0
San Andrews (Marine)	Before NOV NOV to EDPRP/Settlement Offe	The first of All Defending All and the Charles of All and All and the Charles of All and All a		
Extraordinary				
Ordinary			•	÷
N/A	X (mark with x)		1	
Notes	The respondent does not meet the	ne good faith criteria.		
	N	6 Enhancement*	Subtotal 6	\$0
Approx. C		ed at the Total EB \$ Amount	Hr rives Assembly of Paristernal	
SUM OF SUBTOTALS	17		inal Subtotal	\$7,875
	JUSTICE MAY REQUIRE blotal by the indicated percentage. (Enter number or	nly; e.a30 for -30%.)	Adjustment	\$0
Notes		•	S. C.	
			l <u>, </u>	A7 075
·		Final Per	nalty Amount	\$7,875
STATUTORY LIMIT A	DJUSTMENT	Final Asse	ssed Penalty	\$7,875
DEFERRAL Reduces the Final Assessed Pena	Ity by the indicted percentage. (Enter number only, e	0% Reduction	Adjustment	\$0
Notes	Deferral not offered for non-exp			
			· •	· •
PAYABLE PENALTY				\$7,875

Docket No. 2007-0585-PST-E

PCW

Policy Revision 2 (September 2002)
PCW Revision March 19, 2007

Respondent William Dodson

Case ID No. 33268

Reg. Ent. Reference No. RN101872133

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Chris Holcomb

	ι			<u></u>
·C	Compliance History Notes	Enhancement for one NOV with same or similar violations.	· · · · · · · · · · · · · · · · · · ·	
nplia	ince History	Summary		.
	Average Pe	erformer Adjustment Pe	ercentage (S	ubtotal 7)
nplia	ince History	Person Classification (Subtotal 7)		
	No		ercentage (S	ubtotal 3)
eat	Violator (Su	btotal 3)		
		Adjustment Pe	ercentage (S	ubtotal 2)
		environmental requirements	No	0%
		Participation in a voluntary pollution reduction program Early compliance with, or offer of a product that meets future state or federal government	No.	
	Other	special assistance program		0%
		Voluntary on-site compliance assessments conducted by the executive director under a	No	0%
Γ		Environmental management systems in place for one year or more	No No	0%
		Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) Please	e Enter Yes or No	
	Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege	0	0%
	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Emissions	Chronic excessive emissions events (number of events)	0	0%
F	Convictions	Any criminal convictions of this state or the federal government (number of counts)		0%
a	and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
	Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
		Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
L		Other written NOVs	0 .	0%
	NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
		Number of		

Screening Date	18-Apr-2007	Docket	No. 2007-0585-PST-E	PCW
Respondent	William Dodson			Policy Revision 2 (September 2002)
Case ID No.			•	PCW Revision March 19, 2007
Reg. Ent. Reference No.			•	The control of the co
	Petroleum Storage Tank			The property of the state of th
Enf. Coordinator Violation Number				
	1			· · · · · · · · · · · · · · · · · · ·
Rule Cite(s)		30 Tex. Admin. Code §	334.47(a)(2)	
Violation Description	upgrade implementatio	n date, three USTs for w	later than 60 days after the pr hich any applicable compone e with the upgrade requireme	nt of the
			Base	e Penalty \$10,000
>> Environmental, Property a	FILESCOPE COLUMN TO THE CONTRACTOR CONTRACTO	atrix		
Polone.	Harm Major Madarata	Minor	•	
Release OR Actual	Major Moderate	Minor		
Potential	х		Percent 25%	
	and proceedings to the figure of the control of the	and the state of t	and (-1) to produce to panel.	,
>>Programmatic Matrix Falsification	Mojor Moderate	Minor		
Paisilication	Major Moderate	Minor	Percent 0%	
			1 Cr Ocht 0 70]	
			pollutants which would excee eptors as a result of the violat	
			Adjustment	\$7,500
				\$2,500
Violation Events				
Number of Vie	lation Events	–	Alumbar of violation day	
Number of Vio	lation Events 3		Number of violation day	5
mark only one wilh an x	daily monthly x quarterly semiannual annual single event		Violation Base	Penalty \$7,500
Three month		tank) are recommended the April 18, 2007 scree	from the record review date onling date.	of March
Economic Benefit (EB) for thi	s violation		Statutory Limit Tes	t 15, 15, 15, 15, 15, 15, 15, 15, 15, 15,
Estimated	EB Amount	\$4,474	Violation Final Pena	alty Total \$7,875
		This violation Final As	ssessed Penalty (adjusted fo	or limits) \$7,875

Violation No. 1 Percent Interest Deprec								•
Respondent William Dodson Case ID No. 33268 Reg. Ent. Reference No. RN/101872133 Media Petroleum Storage Tank Violation No. 1 Percent Interest Year Deprec S.0 The most of the mos	THE RESIDENCE OF THE PARTY OF T	F(conomic	Benefit W	lorks	sheet		Mark West
Case ID No. 33268 Reg. Ent. Reference No. RN101872133 Media Petroleum Storage Tank Violation No. 1 Percent Interest Percent Interest Deprec 5.0	enderen in der en					,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	an artification and the re-	sagifure purities in
Reg. Ent. Reference No. RN101872133 Media Petroleum Storage Tank Violation No. 1 Percent Interest Deprec 5.0)					
Nedia Petroleum Storage Tank Violation No. 1								
Notes for DeLAYED costs Stimulated Sti	Reg. Ent. Reference No.	RN101872133						n aankend trikka kannele kommer til kom dirikka mar mer de trika
Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Am	Media	Petroleum Stora	age Tank				Dorcont Interest	Years of
Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Am	Violation No.	1						Depreciation
Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Am			\$ 6	THE RELEASE		Lesson by Wile		15
Delayed Costs	용하나 있어요. 그리고 모르고 말해							
Delayed Costs Equipment Buildings	뉴 이름을 내용하는 이 그렇게 살다.	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment Buildings	Item Description	No commas or \$			-3			
Equipment Buildings	antaran eren eren eta eta eren eren eren eren eren eren eren ere	trait in the		tara a sa sa sas		, unautin, mulkiteaeut	i de la company de la comp	enter en
Suildings Other (as needed) O.0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0		(· · · · · · · · · · · · · · · · · · ·		<u>i engla wan Aliji (2006) ani na ali</u>	1 00	l en	l ¢n	\$0
Comparison Com	• • • • • • • • • • • • • • • • • • • •						<u> </u>	
Content Cont	<u> </u>							
Comparison Com								
Record Keeping System								\$0
Training/Sampling								\$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs AVOIDED Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)				<u> </u>				\$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed) Stophics	=							\$0
Other (as needed) S10,000 S2-Dec-1998 S1-Dec-2007 S9 S4.474 S34.474 S4.474 S4.47 S4.474 S4.474 S4.474 S4.474 S4.47 S4.47 S4.47 S4.47 S4.47 S								\$0
the respondent was required to upgrade the UST system and the Final Date is based on the estimate compliance date. Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed) the respondent was required to upgrade the UST system and the Final Date is based on the estimate compliance date. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) 0.0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0		\$10,000	22-Dec-1998	1-Dec-2007				\$4,474
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/Requipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed) ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) 0.0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	Notes for DELAYED costs			d to upgrade the U	ST syste	em and the Final C		
Disposal								
Personnel 0.0	The same of the sa	ANNU	JALIZE [1] avoid	ed costs before e				
Inspection/Reporting/Sampling 0.0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	-							
Supplies/equipment 0.0								
Financial Assurance [2]								
ONE-TIME avoided costs [3] 0.0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0								
Other (as needed) 0.0 \$0 \$0 \$0								
	• • •							
Notes for AVOIDED costs	Other (as needed)			<u> </u>	<u> U,U </u>	<u> </u>	[Φυ	φυ
Notes for Avoided costs	Notes for AVOIDED and							
	Notes for Avoided costs	· ·						
,	·			<u> </u>				
Approx. Cost of Compliance \$10,000	Approx. Cost of Compliance		\$10,000	1	`	TOTAL		\$4,474

Compliance History

Customer/Respondent/Owner-Operator:	CN603070830	DODSON, WILLIAM		Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN101872133	RN101872133 WILLIAM AND JOHN DODSON		Classification: AVERAGE	Site Rating: 2.00
ID Number(s):	PETROLEUM ST	ORAGE TANK	**************************************	REGISTRATION	59397
Location:		ST, KERMIT, TX, 79745		Rating Date: 9/1/2006 /	Repeat Violator: NO
TCEQ Region:	REGION 07 - MID	DLAND			
Date Compliance History Prepared:	April 25, 2007				
Agency Decision Requiring Compliance History:	Enforcement				
Compliance Period:	April 25, 2002 to A	April 25, 2007			
TCEQ Staff Member to Contact for Additional Info	ormation Regarding th	nis Compliance History			
Name: Chris Holcomb	Pho	one: (512) 239-2541			
	Site Co	ompliance History Comp	onents		
1. Has the site been in existence and/or operation	n for the full five year	compliance period?	Yes		
2. Has there been a (known) change in ownershi	p of the site during the	e compliance period?	Yes	•	
3. If Yes, who is the current owner?			John Paul Do	odson and William Dodson	
4. if Yes, who was/were the prior owner(s)?			Oliver Brown		
5. When did the change(s) in ownership occur?			07/01/2006		
Components (Multimedia) for the Site :		•		•	
A. Final Enforcement Orders, court judge	ments, and consent o	decrees of the state of Texas	and the federal	government.	
N/A					
	. Tarras and the follow	-1			
 Any criminal convictions of the state or N/A 	r rexas and the reder	ai government.			
C. Chronic excessive emissions events.					
N/A					
D. The approval dates of investigations. (CCEDS Inv. Track N	lo.)			•
1 08/10/2006 (481324) 2 04/02/2007 (555652)	, , , , , , , , , , , , , , , , , , ,			,	
E. Written notices of violations (NOV). (C	CEDS Inv. Track. No	.)			
Date: 08/10/2006 (48132	24)			*	
Self Report? NO		Classif	ication: Mode	erate	•
Description: failed to upg	apter 334, SubChapte grade tanks to meet to y removed from servio	echnical requirements and the	e tanks have not	been	•
Self Report? NO	, , , , , , , , , , , , , , , , , , , ,	Classif	ication: Mino	r	
	apter 334, SubChapte end, update or chang	er A 334.7(d)(3) e registration information as r	equired		
F. Environmental audits. N/A					
G. Type of environmental management s	ystems (EMSs).				
N/A				•	
H. Voluntary on-site compliance assessm	ent dates.				
N/A		•			
. Participation in a voluntary pollution re-	duction program.				
N/A					
Early compliance.			•		
N/A				•	

Sites Outside of Texas

N/A

Policy Revision 2 (Sep.	Penalty Calculation Worksheet (PCW) PCW Revision N PCW Revision N	March 19, 2007
TCEO	premiser 2002)	101011 10, 2001
DATES Assigned PCW		
RESPONDENT/FACILITY	VINEOPMATION	
	John Paul Dodson	
Reg. Ent. Ref. No.	RN101872133	1
Facility/Site Region		1
Andrews of the Control of the Contro		
CASE INFORMATION		
Enf./Case ID No.	No. of Violations 1	_
	. 2007-0585-PST-E Order Type 1660	_
	Petroleum Storage Tank Enf. Coordinator Chris Holcomb	4
Multi-Media		_
Admin. Penalty \$ L	Limit Minimum \$0 Maximum \$10,000	
	Penalty Calculation Section	
TOTAL BASE PENAL	LTY (Sum of violation base penalties) Subtotal 1	\$7,500
ADJUSTMENTS (+/-)	TO SUBTOTAL 1	
Subtotals 2-7 are obtain	ined by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance Histo	tory 5% Enhancement Subtotals 2, 3, & 7	\$375
	The agreement for one NOV with some or similar violeties	
Notes	Enhancement for one NOV with same or similar violations.	
1200		-
Culpability	No 0% Enhancement Subtotal 4	\$0
Notes	The respondent does not meet the culpability criteria.	
Good Faith Effort	rt to Comply 0% Reduction Subtotal 5	\$0
	Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary		
Ordinary		
N/A		
Notes	The respondent does not meet the good faith criteria.	
	0% Enhancement* Subtotal 6	\$0
	Total EB Amounts \$4,474 *Capped at the Total EB \$ Amount	
Approx. 0	Cost of Compliance \$10,000	
OUR OF OUDTOTAL	#12970 - Tennessen A. C. En 1990 - Francis et al. 1891 - 1898 - March & JAPAN - 1892 - 1892 - 1892 - 1991 - 19	\$7,875
SUM OF SUBTOTALS	S 1-7 Final Subtotal	\$1,015
Note that a personal New York Control of the Author Control of the		- 00
	S JUSTICE MAY REQUIRE Adjustment	\$0
Reduces or enhances the Final St	Subtotal by the indicated percentage. (Enter number only; e.g30 for -30%.)	
N-4		
Notes		
L	Final Penalty Amount	\$7,875
	rinal renaity Amount	ψ1,013
CTATUTODY LIMIT A		¢7 Q7E
STATUTORY LIMIT A	ADJUSTMENT Final Assessed Penalty	\$7,875
<u> </u>		
DEFERRAL	0% Reduction Adjustment	\$0
Reduces the Final Assessed Pena	nalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)	-
	Defended and former among the description	
Notes	Deferral not offered for non-expedited settlement.	40

PAYABLE PENALTY

\$7,875

Docket No. 2007-0585-PST-E

PCW

Policy Revision 2 (September 2002) PCW Revision March 19, 2007

Case ID No. 33268
Reg. Ent. Reference No. RN101872133

Media [Statute] Petroleum Storage Tank

Respondent John Paul Dodson

Enf. Coordinator Chris Holcomb

Compliance History Worksheet

>> Com		y Site Enhancement (Subtotal 2) Number of	nter Number Here	Adjust.
	NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
		Other written NOVs	0	0%
		Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
	Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
	Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
	Emissions	Chronic excessive emissions events (number of events)	0	0%
	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	, taging	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
		Pleas	se Enter Yes or No	
		Environmental management systems in place for one year or more	No	0%
	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
		Participation in a voluntary pollution reduction program	No	0%
		Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
		Adjustment P	ercentage (Si	ıbtotal 2) 5%
Repe				
	No		ercentage (Sı	ıbtotal 3) <u>0%</u>
> Comp		Person Classification (Subtotal 7)		
	Average Po	erformer Adjustment P	ercentage (Su	ıbtotal 7) 🔃 0%
> Comp	oliance History	Summary		
	Compliance History Notes	Enhancement for one NOV with same or similar violations.		
	,	Total Adjustment Percentage	(Subtotals 2	2, 3, & 7) 5%
				* . * / . b

Screening Date	18-Apr-2007	Docket	No. 2007-0585-PST-E	PCW
•	John Paul Dodson		Policy R	evision 2 (September 2002)
Case ID No.			PC	W Revision March 19, 2007
Reg. Ent. Reference No.				
	Petroleum Storage Tank			
Enf. Coordinator	Chris Holcomb			
Violation Number	1			1
Rule Cite(s)		30 Tex. Admin. Code §	334.47(a)(2)	
Violation Description	upgrade implementation	date, three USTs for w	ater than 60 days after the prescribed hich any applicable component of the e with the upgrade requirements.	
	•		Base Penalty	\$10,000
>> Environmental, Property a Release OR Actual	nd Human Health Ma Harm Major Moderate	atrix:		
Potential	х		Percent 25%	
>>Programmatic Matrix				
Falsification	Major Moderate	Minor		
			Percent 0%	
				1
			pollutants which would exceed levels optors as a result of the violation.	
			Adjustment \$7,500	•
				\$2,500
Violation Events				
Number of Viol	lation Events 3		Number of violation days	
merk only one with an x	daily x monthly x quarterly semiannual annual single event		Violation Base Penalty	\$7,500
Three monthl		ank) are recommended the April 18, 2007 scree	from the record review date of March ening date.	
Economic Benefit (EB) for this	s violation		Statutory Limit Test	
Estimated	EB Amount	\$4,474	Violation Final Penalty Total	\$7,875
-		This violation Final ^-	spaced Populty (adjusted for limits)	¢7 07E
		ims violation Final As	sessed Penalty (adjusted for limits)	\$7,875

		conomic	Benefit W	orks/	sheet		
Respondent Case ID No.		son					
Reg. Ent. Reference No.							
	Petroleum Stor					Percent Interest	Years of Depreciation
violation No.	T A Nacionii Arvot eta	4.1	F. 48, 1403,047	38,279.C	97 N. A.M., . 30,60		
나 있었다. 하는 학교 사람, 박이 및						5.0	15
그렇지만 그렇게 지지않았다요?	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$		and the second second	Magnetic		65km : 15 위 위상, 기	d nahraki be
Delayed Costs_		198					
Equipment				0.0	\$0	\$0	\$0
. Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0 \$0	n/a n/a	\$0
Record Keeping System				0.0	\$0		\$0 \$0
Training/Sampling [Remediation/Disposal				0.0	\$0	h/a n/a	\$0
Permit Costs		<u></u>		0.0	\$0	n/a	\$0 \$0
Other (as needed)	\$10,000	22-Dec-1998	1-Dec-2007	8.9	\$4,474	n/a	\$4,474
Notes for DELAYED costs			cor	npliance	date.	pate is based on the	
Avoided Costs	ANN	UALIZE [1] avoide	ed costs before e			one-time avoided c	
Disposal Personnel				0.0	\$0 \$0	\$0 \$0	\$0 \$0
Inspection/Reporting/Sampling			 	0.0	\$0	\$0	\$0 \$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	- ,,			0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs	,						
Approx. Cost of Compliance		\$10,000			TOTAL		\$4,474

Compliance History

			## · · · · · ·	•	
Custom	er/Respondent/Owner-Operator:	CN603179292 DO	DSON, JOHN PAUL	Classification: AVERAGE	Rating: 2.00
Regulat	ed Entity:	RN101872133 WIL	LIAM AND JOHN DODSO	N Classification: AVERAGE	Site Rating: 2.00
ID Number(s):		PETROLEUM STORAG	E TANK	REGISTRATION	59397
_ocatior	1:	321 S POPLAR ST, KER	RMIT, TX, 79745	Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ F	Region:	REGION 07 - MIDLAND			
Date Co	ompliance History Prepared:	April 25, 2007			
Agency	Decision Requiring Compliance History:	Enforcement			
Complia	ance Period:	April 25, 2002 to April 25	5, 2007		
TCEQ S	Staff Member to Contact for Additional Info	rmation Regarding this Cor	mpliance History		
Name:	Chris Holcomb	Phone:	(512) 239-2541		
		Site Compli	ance History Compon	ents	
1 Hast	he site been in existence and/or operation		. 10	⁄es	
	here been a (known) change in ownership		•	Yes .	
	s, who is the current owner?			John Paul Dodson and William Dodson	•
4. if Ye	s, who was/were the prior owner(s)?		-	Oliver Brown	-
5. Whe	n did the change(s) in ownership occur?	•	-	07/01/2006	-
	onents (Multimedia) for the Site :		<u>`</u>		<u> </u>
۹ <i>.</i>	Final Enforcement Orders, court judge	ments, and consent decree	s of the state of Texas and	the federal government.	
•		,			
	N/A				
В.	Any criminal convictions of the state of	Texas and the federal gove	ernment.		
	N/A			•	
C.	Chronic excessive emissions events.	•		,	
	N/A			. •	
) .	The approval dates of investigations. (CCEDS Inv. Track. No.)			
	1 08/10/2006 (481324) 2 04/02/2007 (555652)				
Ξ.	Written notices of violations (NOV). (Co	CEDS Inv. Track. No.)			
•	Date: 08/10/2006 (48132-	4)			
	Self Report? NO Citation: 30 TAC Cha	pter 334, SubChapter C 33	Classificati 4.47(a)(2)	ion: Moderate	
		rade tanks to meet technica removed from service	al requirements and the tar	iks have not been	
	Self Report? NO		Classificati	ion: Minor	
		pter 334, SubChapter A 33 and, update or change regis		ired	
₹.	Environmental audits.		•		
	N/A				
Э.	Type of environmental management sy	stems (EMSs).			
	N/A			·	
Н.	Voluntary on-site compliance assessment	ent dates.	· ·		
	N/A	, ,			
	Participation in a voluntary pollution rec	luction program.		•	
	N/A				
	Early compliance.				

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§ ·	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
JOHN PAUL DODSON AND	§	
WILLIAM DODSON;	§	ENVIRONMENTAL QUALITY
RN101872133	§	

DEFAULT ORDER DOCKET NO. 2007-0585-PST-E

At its	agenda, the Texas Commission on Environmental Quality,
("Commission" or "TCEQ") considered	ed the Executive Director's Preliminary Report and Petition
filed pursuant to Tex. Water Code	chs. 7 and 26 and the rules of the TCEQ, which requests
appropriate relief, including the imposi	tion of an administrative penalty and corrective action of the
respondents. The respondents made the	he subject of this Order are John Paul Dodson and William
Dodson ("Respondents").	

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

- 1. Respondents own a former convenience store with retail sales of gasoline located at 321 South Poplar Street, Kermit, Winkler County, Texas (the "Facility").
- 2. Respondents's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Respondents' USTs contain a regulated substance as defined in the rules of the Commission.
- 3. During an investigation conducted on June 21, 2006, and a record review conducted on March 20, 2007, a TCEQ Midland Regional Office investigator documented that Respondents failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
- 4. Respondents received notice of the violation on or about August 11, 2006, and April 5, 2007.

- 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of John Paul Dodson and William Dodson" (the "EDPRP") in the TCEQ Chief Clerk's office on January 10, 2008.
- 6. By letters dated January 10, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green cards," Respondents received notice of the EDPRP on January 29, 2008, as evidenced by the signatures on the cards.
- 7. More than 20 days have elapsed since each Respondent received notice of the EDPRP, provided by the Executive Director. Respondents failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact Nos. 1 and 2, Respondents are subject to the jurisdiction of the TCEQ pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Commission.
- 2. As evidenced by Finding of Fact No. 3, Respondents failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 Tex. ADMIN. CODE § 334.47(a)(2).
- 3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Respondents with proper notice of the EDPRP, as required by Tex. WATER CODE § 7.055 and 30 Tex. ADMIN. CODE § 70.104(a).
- 4. As evidenced by Finding of Fact No. 7, Respondents failed to file a timely answer to the EDPRP, as required by Tex. Water Code § 7.056 and 30 Tex. Admin. Code § 70.105. Pursuant to Tex. Water Code § 7.057 and 30 Tex. Admin. Code § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.
- 5. Pursuant to Tex. Water Code § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

John Paul Dodson and William Dodson Docket No. 2007-0585-PST-E Page 3

- 6. An administrative penalty in the amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in Tex. Water Code § 7.053.
- 7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondents are assessed an administrative penalty in the amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: John Paul Dodson and William Dodson; Docket No. 2007-0585-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondents shall permanently remove from service the UST system located at the Facility, in accordance with 30 Tex. Admin. Code § 334.55.
 - b. Within 45 days after the effective date of this Order, Respondents shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with ordering provision No.

2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondents shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Michael Edmiston, Water Section Manager Texas Commission on Environmental Quality Midland Regional Office 3300 North A Street, Bldg. 4-107 Midland, Texas 79705-5451

- 3. All relief not expressly granted in this Order is denied.
- 4. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 5. If Respondents fail to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within

- seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondents if the Executive Director determines that Respondents has not complied with one or more of the terms or conditions in this Order.
- 8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
- 9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 Tex. ADMIN. CODE § 70.106(d) and Tex. Gov't Code § 2001.144.

John Paul Dodson and William Dodson Docket No. 2007-0585-PST-E Page 6

SIGNATURE PAGE

TEXAS	COMMISSIC	N ON ENV	TRONMENT	'AT, C	TALITY)
		11 O11 LI1 .			

For the Commission

AFFIDAVIT OF LENA ROBERTS

STATE OF TEXAS §
COUNTY OF TRAVIS §

"My name is Lena Roberts. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of John Paul Dodson and William Dodson" (the "EDPRP") was filed with the Office of the Chief Clerk on January 10, 2008.

The EDPRP was mailed to each Respondent at his last known address on January 10, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," each Respondent received notice of the EDPRP on January 29, 2008, as evidenced by the signatures on the cards.

More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."

Lena Roberts, Attorney

Office of Legal Services, Litigation Division Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Lena Roberts, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 20th day of February, 2008.

Margaret Jackson
Notary Public
State of Texas
My Commission Expires
OCTOBER 06, 2009

Notary Signatur